

AMENDED IN SENATE MAY 26, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 239

Introduced by Senator Romero

February 15, 2005

An act to add ~~Sections 2602 and 2603~~ *Section 6357* to the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

SB 239, as amended, Romero. Corrections: media access.

Existing law grants certain rights to inmates in state prisons. Existing regulation allows media representatives access to state prisons with prior approval, and allows random interviews with inmates.

~~This bill would make findings and declarations regarding the importance of allowing the media to have access to inmates.~~

This bill would require the Department of Corrections, upon reasonable notice, to permit representatives of the news media to interview prisoners in person ~~or randomly~~, as specified, and would prohibit the interview of a prisoner or parolee against his or her will. The bill would require the department to permit the news media to receive confidential correspondence from a prisoner, except as specified, and would forbid retaliation against an inmate for participating in a visit by a representative of the news media.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. It is the intent of the Legislature in enacting this*
2 *act to facilitate the public's ability to obtain information, through*
3 *the news media, about the operation of the state's prisons and*
4 *the effectiveness of its laws and to hold inmates publicly*
5 *accountable for their words and actions. Representatives of the*
6 *news media may visit a prison for the purpose of preparing such*
7 *reports about the institution, including by interviewing individual*
8 *prisoners. The intent of this act is to insure a better-informed*
9 *public, not to provide publicity for an inmate.*

10 *SEC. 2. Section 6357 is added to the Penal Code, to read:*

11 6357. (a) *The Department of Corrections, upon reasonable*
12 *notice, shall permit representatives of the news media to*
13 *interview prisoners in person, including prearranged interviews*
14 *with specified prisoners and individuals encountered by a*
15 *representative of the news media while covering a facility tour,*
16 *activity, event or program. Either an inmate or a representative*
17 *of the news media may initiate a request for a personal interview*
18 *at an institution.*

19 (b) *During any interview with a prisoner, a representative of*
20 *the news media may use materials necessary to conduct the*
21 *interview, including, but not limited to, pens, pencils, papers, and*
22 *audio and video recording devices.*

23 (c) *A news media representative who desires to conduct a*
24 *personal interview at an institution shall make the request within*
25 *a reasonable time period prior to the requested interview in*
26 *writing to the warden or through contact with the institution's*
27 *public relations office.*

28 (d) *Staff shall notify an inmate of each interview request, and*
29 *no interview shall be permitted without the inmate's consent.*

30 (e) *An inmate may not receive compensation or anything of*
31 *value for interviews with the news media.*

32 (f) *The warden or the warden's designated public-relations or*
33 *custodial official shall, within 48 hours of receiving an interview*
34 *request, notify the news media representative making the request*
35 *whether the interview has been granted.*

36 (g) *After the warden or the warden's designated*
37 *public-relations or custodial official grants a request of an*
38 *interview, staff shall, at least two business days prior to the*

1 interview, notify any victims of an inmate who have previously
2 notified the warden or Department of Corrections that they wish
3 to be contacted in the event of an interview request that an
4 interview has been granted.

5 (h) The warden or his or her designee may deny a personal
6 interview with a particular prisoner if it is determined that the
7 interview would pose an immediate and direct threat to the
8 security of the institution or the physical safety of a member to
9 the public. Within a reasonable period of time, the representative
10 of the news media shall receive an explanation of the specific
11 reasons for the denial. In order to ensure the security of the
12 institution, the physical safety of the public and the efficient
13 administration of news media interviews, the department may
14 establish reasonable time, place, and manner restrictions for
15 prison interviews, including limitations on the number of
16 interviews per prisoner in a specified time period, limitations on
17 the amount of audio, video and film equipment entering the
18 facility and arrangements for pool interviews if the number of
19 journalists requesting to interview any one prisoner is excessive.

20 (i) The department shall permit the news media to exchange
21 confidential correspondence with a prisoner unless to do so
22 would pose an immediate and direct threat to the security of the
23 institution or the safety of the public.

24 (j) No prisoner or parolee may have his or her visitation
25 limited or revoked because of a visit or potential visit from a
26 representative of the news media, nor may a prisoner or parolee
27 be punished, reclassified, disciplined, transferred to another
28 prison against his or her wishes, or otherwise retaliated against,
29 for participating in a visit by a representative of the news media.

30 (k) Interviews shall not be subject to auditory monitoring.

31 (l) For the purposes of this section, “representative of the
32 news media” means a journalist who works for, or is under
33 contract to, a newspaper, magazine, wire service, book
34 publisher, or radio or television program, or station or who,
35 through press passes issued by a governmental or police agency,
36 or through similar convincing means, can demonstrate that he or
37 she is a bona fide journalist engaged in the gathering of
38 information for distribution to the public.

39 ~~SECTION 1. It is the intent of the Legislature in enacting this~~
40 ~~act to invalidate changes in Section 3261.5 of Title 15 of the~~

~~California Code of Regulations for which a certificate of compliance was filed on April 14, 1997.~~

~~SEC. 2. Section 2602 is added to the Penal Code, to read:~~

~~2602. (a) The Legislature finds and declares all of the following:~~

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~~(1) Free exchange of information from behind prison walls benefits the public and fosters a safe and efficient prison system.~~

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~~(2) The Department of Corrections has historically permitted media access to state prisoners without endangering the safety of the prisons or the public.~~

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~~(3) Members of the news media should be permitted to interview state prisoners unless that access would pose an immediate and direct threat to the security of the institution or the safety of members of the public.~~

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~~(4) There is no legitimate reason for a blanket ban on media interviews with specified prisoners.~~

~~(b) The Department of Corrections, upon reasonable notice, shall permit representatives of the news media to interview prisoners in person, including prearranged interviews with specified prisoners. A personal interview of a particular prisoner may be denied if the department determines that the interview would pose an immediate and direct threat to the security of the institution or the physical safety of a member of the public. The department may establish reasonable time, place, and manner restrictions for prison interviews, including limitations on the number of interviews per prisoner in a specified time period, and requiring arrangements for pool interviews if requests to interview any one prisoner are excessive, in order to ensure the security of the institution, the physical safety of the public, and the efficient administration of news media interviews.~~

~~(1) The department shall permit random interviews of individuals encountered by a representative of the news media while covering a facility tour, activity, event, or program.~~

~~(2) During any interview with a prisoner, a representative of the news media may use materials necessary to conduct the~~

1 interview, including, but not limited to, pens, pencils, papers, and
2 audio and video recording devices.

3 ~~(3) The department shall permit the news media to receive~~
4 ~~confidential correspondence from a prisoner unless to do so~~
5 ~~would pose an immediate and direct threat to the security of the~~
6 ~~institution or the safety of the public.~~

7 ~~(4) No prisoner or parolee shall be interviewed against his or~~
8 ~~her will.~~

9 ~~(5) No prisoner or parolee may have his or her visitation~~
10 ~~limited or revoked because of a visit or potential visit from a~~
11 ~~representative of the news media, nor may a prisoner or parolee~~
12 ~~be punished, reclassified, disciplined, transferred to another~~
13 ~~prison against his or her wishes, or otherwise retaliated against~~
14 ~~for participating in a visit by a representative of the news media.~~

15 SEC. 3. Section 2603 is added to the Penal Code, to read:

16 2603. For purposes of this article, “representative of the news
17 media” means a journalist who works for, or is under contract to,
18 a newspaper, magazine, wire service, book publisher, or radio or
19 television program, or station or who, through press passes issued
20 by a governmental or police agency, or through similar
21 convincing means, can demonstrate that he or she is a bona fide
22 journalist engaged in the gathering of information for distribution
23 to the public.